

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically at the time and date indicated, which may be materially different from its entry on the record.



Dated: 08:29 AM September 8, 2015



Russ Kendig
United States Bankruptcy Judge

15-01223

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In Re:

Johnney J Johnson, Sr
Theresa A Johnson

Debtors

CASE NO. 15-60094

CHAPTER 13

JUDGE RUSS KENDIG

(1530 Gross Avenue NE, Canton, OH 44705)

**AGREED ORDER GRANTING CONDITIONAL RELIEF FROM STAY, DOCKET
NUMBER 38**

This matter came on for consideration by the Court upon the Motion of Bayview Loan Servicing, LLC its successors and assigns, ("Movant") for relief from stay.

The Court finds that the parties have agreed that:

1. Beginning October 1, 2015 Debtors shall make the monthly mortgage payments to the Chapter 13 Trustee. If the Debtors fall more than 30 days behind in their payments to the Trustee, this failure to pay Trustee shall constitute a default of the terms of this Order. **The terms and conditions of the note and mortgage remain unaffected by this Stipulated Order.**

2. Debtor presently owes Movant the sum of \$3,636.97 which is comprised of post-petition arrearages, late charges, costs and fees which have accrued up to and including September 1, 2015. Counsel for Creditor shall file a supplemental proof of claim for this amount which consists of \$676.00, which represents the attorney fees of \$500.00 and filing fee of \$176.00 associated with the filing of the Motion, plus remaining payment arrearages of \$3,436.57 (7 payments @ \$490.93 for March 1, 2015 through September 1, 2015) less the suspense amount of \$475.54. **The parties are in agreement that the Debtor should only pay and the Creditor should only receive what is actually owed, no more and no less. If it is discovered that certain payments or advances were not properly credited or accounted for, then the parties agree that the Agreed Order shall be modified to accurately reflect the status of the account.**

3. Should Debtors convert to another chapter under the bankruptcy code during the life of this agreed order, then, Movant's counsel shall send written notice to Debtors' counsel advising that the entire contractual arrearage is due within 10 days of the date of the letter. If the entire arrearage is not tendered within that 10-day period, then such failure shall constitute a default. **Debtors' opportunity to cure a default shall be limited to three (3) occurrences.**

4. In the event such payments stated above are not timely made, then an event of default hereunder shall exist, and Movant's counsel shall send Debtors' counsel a 10-day notice of intent to file an affidavit and order granting relief from stay. If the default is not cured within that 10-day period, upon the filing of an affidavit by Movant or Movant's counsel attesting to the Debtors' default, an order shall be entered without further hearing, terminating the stay imposed by section 362(a) of the Bankruptcy Code with respect to Movant, its successors and assigns.

5. The Chapter 13 Trustee filed a Modification of Plan on August 20, 2015 which provides that all future mortgage payments to Bayview Loan Servicing, LLC in the amount of \$490.93 per month beginning with the payment due October 1, 2015 shall be made by the Chapter 13 Trustee. Debtors agree not to object to this modification.

IT IS SO ORDERED.

SUBMITTED AND APPROVED BY:

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